



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

November 19, 1992

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Ms. Jean Riley, Executive Director  
Petroleum Tank Release Compensation Board  
1740 N. Montana  
Helena, Montana 59620

Dear Ms. Riley:

I am writing to confirm the conclusions we reached in our earlier telephone conversation regarding the definition of "farm tank" under subtitle I of the Resource Conservation and Recovery Act (RCRA), and the applicability of the farm-tank exclusion to the tank(s) located at the livestock exchange that you described.

A "farm tank" is defined in the federal underground storage tank (UST) regulations (40 CFR 280.12) as; "a tank located on a tract of land devoted to the production of crops or raising of animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations." [emphasis added]

Although the preamble to the regulation does not deal specifically with livestock exchanges, it clearly excludes from the definition of farm tank retail stores and nursery centers where agricultural products are "marketed, but not produced." A similar situation exists with livestock exchanges where livestock is solely marketed, but not raised. Thus, the mere fact that a tank is somehow associated with agricultural operations does not, by itself, allow the tank to be defined as a "farm" tank for purposes of the farm-tank exclusion under subtitle I of RCRA.

The livestock exchange that you described in our conversation and your letter (attached) is evidently devoted to marketing rather than raising of animals, and is not located on a farm or rangeland. Therefore, it appears that a tank located at such a facility would not qualify for the farm-tank exclusion under the federal UST regulations. Unless it is exempted for some other reason that we are unaware of, it would be considered a regulated tank under Subtitle I of RCRA.

I hope this letter meets your needs and apologize for the delay in getting it to you. Please feel free to contact me at (703) 308-8881 if I can be of any further assistance.

Sincerely,

/s/

John M. Heffelfinger  
Office of Underground Storage Tanks

Attachment

cc: UST Regional Program Managers  
Dick Blodnick